IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2439 OF 1994

Shri.Vaibhav Sitaram Nagpure,)
aged about 23 years, Indian)
Inhabitant, residing at)
39/672, Maharashtra Housing)
Colony, Navghar, Mulund(East),)
Bombay-400 081.) ...PETITIONER.

Versus

1. The State of Maharashtra,)
(Through its Secretary,)
Tribal Welfare Department,)
Mantralaya, Bombay.)

2. The Chairman,)
The Scheduled Tribe Caste)
Certificate Verification)
Committee, Adivasi Vikas)
Bhavan, Giri Peth, Amravati)
Road, Opp. R.T.O.Office,)
Nagpur.)

3. The Konkan Duyyam Seva Nivad)

Mandal, Konkan Bhavan,)

New Bombay-14.) ..RESPONDENTS.

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Mr.Y.P.Yagnik, Advocate for the Petitioner.
Mr.Vishal Phad, A.G.P., for the State.

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CORAM : **DR.S.RADHAKRISHNAN AND SMT.V.K.TAHILRAMANI,JJ.**

DATED : **DECEMBER 06, 2006.**

JUDGMENT: (PER SMT.V.K.TAHILRAMANI,J.)

1. The petitioner was earlier aggrieved as respondent No.2-the Scheduled Tribes Caste Certificates Scrutiny Committee had not decided the claim of the petitioner. However, thereafter the respondent No.2 Scrutiny Committee turned down the petitioner’s claim of belonging to "Halba-Scheduled Tribe". The impugned order is dated 30.11.1994 i.e. after the Petition was filed. Consequently, the Petition was allowed to be amended.

2. The petitioner was issued the Caste Certificate dated 25.3.1992 by the Executive

Magistrate, Yavatmal certifying that he belongs to "Halba-Scheduled Tribe". Similar certificate was issued to the petitioner on 7.3.1983 by the Sub-Divisional Executive Magistrate, Greater Bombay. Based on these documents, the petitioner claimed appointment to the post of Clerk from the reserved quota of Scheduled Tribes in the selection process undertaken by the respondent No.3 Board. Consequently his Tribe's claim certificate was referred for verification to the respondent No.2 Scrutiny Committee. It appears that initially the petitioner's Tribe's claim was referred to the Committee at Pune which by its order dated 12.12.1991 held that the caste certificate issued by the Executive Magistrate and relied upon by the petitioner was outside the Scheduled area and was therefore invalid. However, on petitioner's representation, the Scrutiny Committee at Pune transferred the verification case to the respondent No.2 Scrutiny Committee which passed the impugned order and invalidated the Tribe's claim of the petitioner.

3. In support of his claim that he belongs to

"Halba-Scheduled Tribe" the petitioner had submitted in all 24 documents. The petitioner was heard by the Scrutiny Committee on different dates in December, 1993. The father of the petitioner had also appeared before the Scrutiny Committee. The documents at Sr.Nos.1 to 7 pertains to the candidate i.e. the petitioner himself and they were subject to verification. In all these documents, his caste was referred as "Halba" or "Hindu-Halba". The Scrutiny Committee rightly did not rely on these documents. The documents at Sr.Nos.8 to 13 were in respect of his father, whereas documents at Sr.Nos.14 to 16 were in respect of his mother. In none of these documents there was uniformity in mentioning the caste of the petitioner’s parents. In some documents the caste was mentioned as "Halba", in some documents it was mentioned as "Nagpure", whereas in some other documents the caste was mentioned as "Hindu-Halba" or "Hindu-Nagpure". The remaining documents pertain to some relatives on the maternal side of the petitioner and did not have any evidentiary value. In these circumstances, the decision of the Scrutiny Committee, not to

rely upon these documents, cannot be faulted.

4. The Scrutiny Committee has mainly relied upon the school record of the petitioner’s father and his paternal cousin and maternal uncle i.e. mothers brother. The petitioner’s father i.e. Sitaram Maruti Nagpure had his primary education at Jivan Shikshan Vidya Mandir, Yeole and in the school register his caste is mentioned as "Nagpure". His mother i.e. Smt.Vijaya Sitaram Nagpure has studied in a primary school and inspite of written assurance given by the petitioner, he did not submit the school leaving certificate or an extract of the admission register in respect of his mother.

5. The Scrutiny Committee had before it the birth extract of a child born on 21.10.1968 to the petitioner’s parents and in the said document the caste was shown as "Koshti". When confronted with this document alongwith the certificate of Shri.Ashok Pralhad Parate dated 12.4.1948, the petitioner and his father claimed before the Scrutiny Committee that "Halba Koshti" or "Koshti"

are "Halba-Scheduled Tribes". In his submission before the Scrutiny Committee, the petitioner's father admitted that his wife belongs to the same caste as him and the document dated 12.4.1948 in respect of petitioner's mother's brother clearly indicated the caste as "Koshti". When the petitioner's father was confronted with this, in his submission dated 10.12.1993 before the Scrutiny Committee, the petitioner's father stated that "Koshti" was only an occupation and in any case they did not claim to belong to "Hindu Koshti" caste.

6. The Constitution Bench in the case of **State of Maharashtra Vs. Milind and Ors., (2001) 1 SCC 4** considered the following two issues:-

(1) Whether at all, it is permissible to hold inquiry and let in evidence to decide or declare that any tribe or tribal community or part of or group within any tribe or tribal community is included in the

general name even though it is not specifically mentioned in the entry concerned in the Constitution (Scheduled Tribes) Order, 1950 ?

(2) Whether "Halba-Koshti" caste is a sub-tribe within the meaning of Entry 19 (Halba/Halbi) of the said Scheduled Tribes Order relating to the State of Maharashtra, even though it is not specifically mentioned as such ?

. While answering the first issue in the negative, the Supreme Court held that it is not permissible to add any prefix or suffix to the Tribes mentioned in the Presidential Orders issued under Article 342 for a particular State. With particular reference to "Halba-Koshti" it was held that "Halba-Koshti" cannot be treated to be a sub-tribe of "Halba/Halbi", and the entries in the Presidential Orders for Scheduled Castes or

Scheduled Tribes will have to be read as they are.

7. In the instant case, the documentary evidence relied upon by the Scrutiny Committee indicated that the petitioner’s caste is "Koshti" and his father had subsequently got the caste entries amended in his service record on the basis of an affidavit. In any case, the petitioner’s father is not a public servant and the service certificate was issued by a private employer viz. Bhiwandiwala Industries, Bhandup, Mumbai.

8. For the reasons stated hereinabove, we hold that the impugned decision of the Scrutiny Committee does not suffer from any errors apparent on the face of record nor it can be said to be perverse and, therefore, it does not call for any interference. The view taken by the Scrutiny Committee is a plausible view on the basis of the documents relied upon by the Committee. Hence, this Petition fails and the same is hereby dismissed. Rule stands discharged.

[DR.S.RADHAKRISHNAN,J.]

[SMT.V.K.TAHILRAMANI,J.]